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**THE CONFLICTING CLAIMS IN THE SOUTH CHINA SEA**

BY

**BRIGADIER GENERAL DATO MOHAMMAD ALI BIN ALWI**  
Malaysian Army

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THE CONFLICTING CLAIMS IN THE SOUTH CHINA SEA  
AN INDIVIDUAL STUDY PROJECT

by

Brigadier General Dato Mohammad Ali bin Ali  
Malaysian Army

Colonel (Retired) Gene Grayson  
Project Advisor

U.S. Army War College  
Carlisle Barracks, Pennsylvania 17013

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## ABSTRACT

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The South China Sea is a strategic location in the Far East and has historically been a major sea lane of communication linking Europe and East Asia. The whole area is virtually under dispute between the littoral states that not only involved the numerous archipelagoes but also two gulfs. Territorial claims over islands, reefs, shoals, and atolls in the archipelagoes stem from the potentially rich sea-beds lying under the Sea and the marine life there. The last two decades saw the increasing use of the military by the littoral states to stake their claims. The latest skirmishes in March 1988 between the Chinese navy and the Vietnamese troops in the Spratlys amply demonstrated the explosive situation in the region. Unless these disputes can be peacefully negotiated, the stability in the South China Sea will remain threatened.

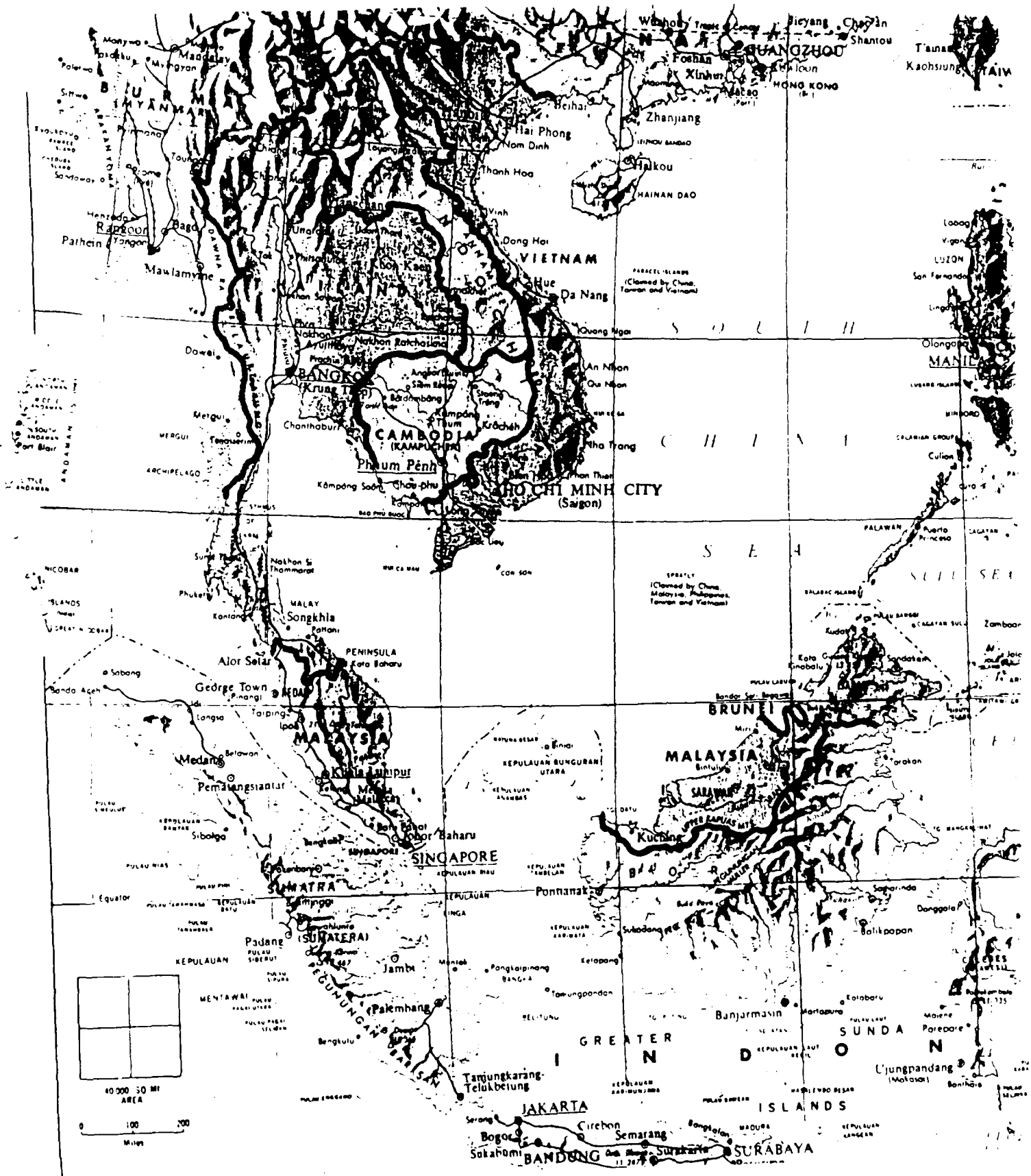
## THE CONFLICTING CLAIMS IN THE SOUTH CHINA SEA

### INTRODUCTION

The South China Sea has historically been a major sea lane of communication for ships that ply from Europe to the Far East because of its proximity to one of the world's most important waterways, the Strait of Malacca.<sup>1</sup> Its strategic importance became evidently clear during the Second World War when the Japanese invaded the Southeast Asian states of Malaya, Indonesia, the Borneo Island, and the Philippines. It was later used extensively by the United States Navy during the Vietnamese War, not only to bring in reinforcements and supplies, but also to launch air strikes from carrier based aircraft. The Soviet Union naval build-up in Cam Ranh Bay after the downfall of Saigon further illustrates the strategic interest of super powers in the region vis-a-vis the United States naval and air presence in the region.<sup>2</sup> The South China Sea is also vital to Japan, Korea, and China who's oil resources from the Middle East are transported through this area.

A more significant development in the last two decades in the region is the territorial disputes between the littoral states of the South China Sea over small islands, islets, reefs, shoals, and atolls that are spread throughout the length and breadth of the South China Sea. The perception of rich sea-beds lying under the sea was further

# THE SOUTH CHINA SEA



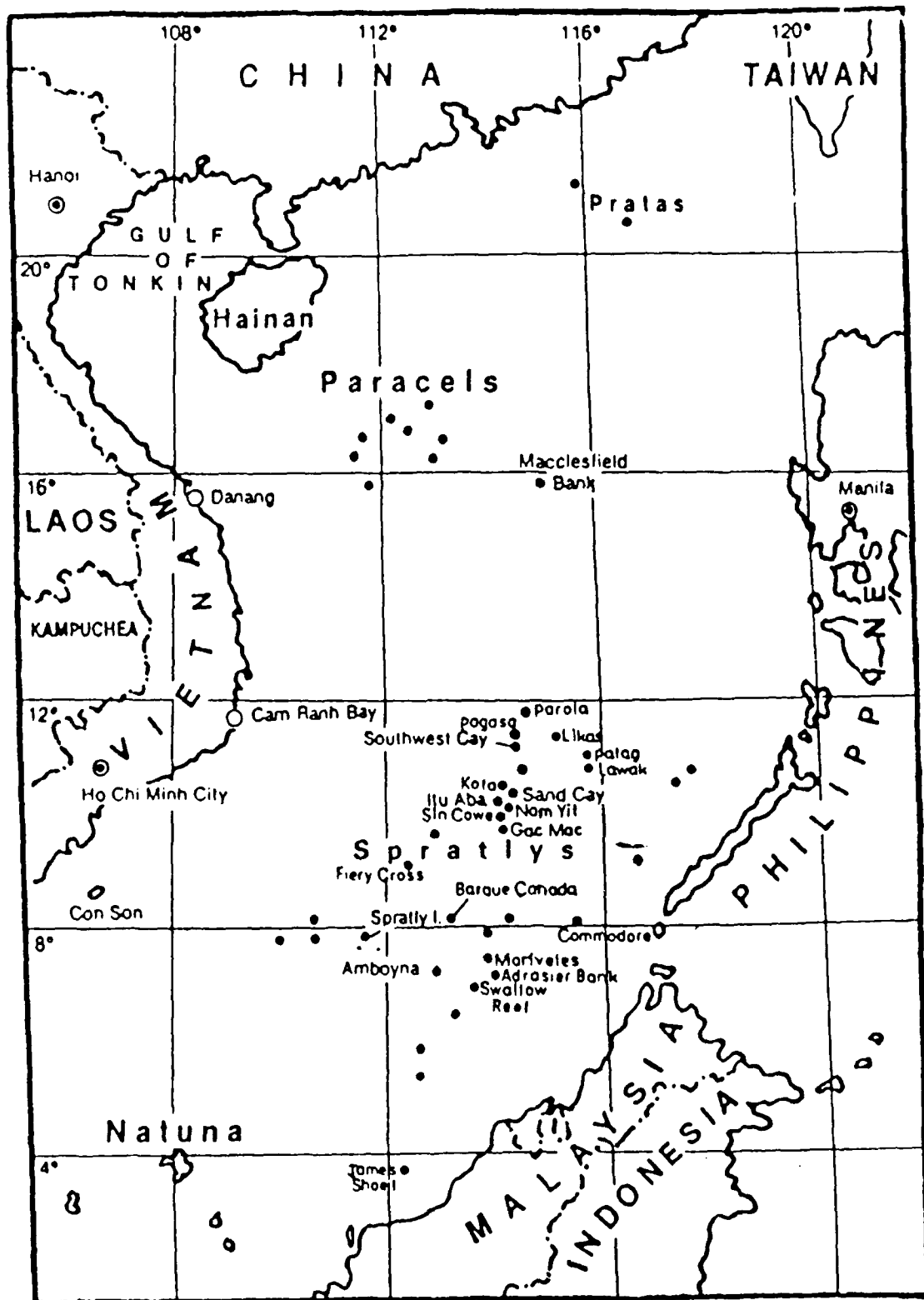
aggravated by the Law of the Sea Convention (LOSC) that extends exclusive economic zones (EEZ) out to 200 miles from the coast.<sup>3</sup> The unresolved question pertaining to territorial seas also added complexities in the surge for new boundaries that promised to bring in wealth from both living and non-living resources.

This paper will attempt to identify the areas under dispute in the South China Sea, trace the respective claimants and their areas of interest; the action that has been taken to affect their claims; outline attempts made to resolve the problems encountered, and examine the security implications that can cause instability in the Southeast Asian region.

#### AREAS UNDER DISPUTE

The whole of the South China Sea is practically under dispute including two gulfs and at least four major archipelagoes. By definition of the LOSC, the South China Sea is a semi-enclosed sea, often referred to as a geographical lake.<sup>4</sup> It extends about 1,570 nautical miles from north to south and 520 nautical miles from east to west at the widest stretch. It is estimated that only 10% of its circumference is water, and covers an area of sea about 780,000 square nautical miles.<sup>5</sup> Hundreds of small islands, islets, reefs, atolls, cays, and sand bars are also found in

# The South China Sea Islands





the sea stretching from north to south in roughly eight distinct archipelagoes.

The largest archipelago is the Spratlys which lies in a central area between Vietnam, the Philippines, and Malaysia. There are more than 230 barren islets in this archipelago which are often subdivided into twelve island groups.<sup>6</sup> These groups are from the north: The North Danger Cays including Parola and Pugad; Thitu Island and Reefs; West York Island (Likas); Lolita and Reefs, Irving Cay (Balaga); Nanshan Island (Lawak); Tizard Bank and Reefs; Union Bank and Reefs including Sin Cowe, Gaven and Caman; Spratly Island including Flery Cross and Cuarten Reef; the Marivales Reef that includes Adrasier Bank and the Swallow Reef; the Commodore Reef and Amboyana Cay.<sup>7</sup> (See map on page 4)

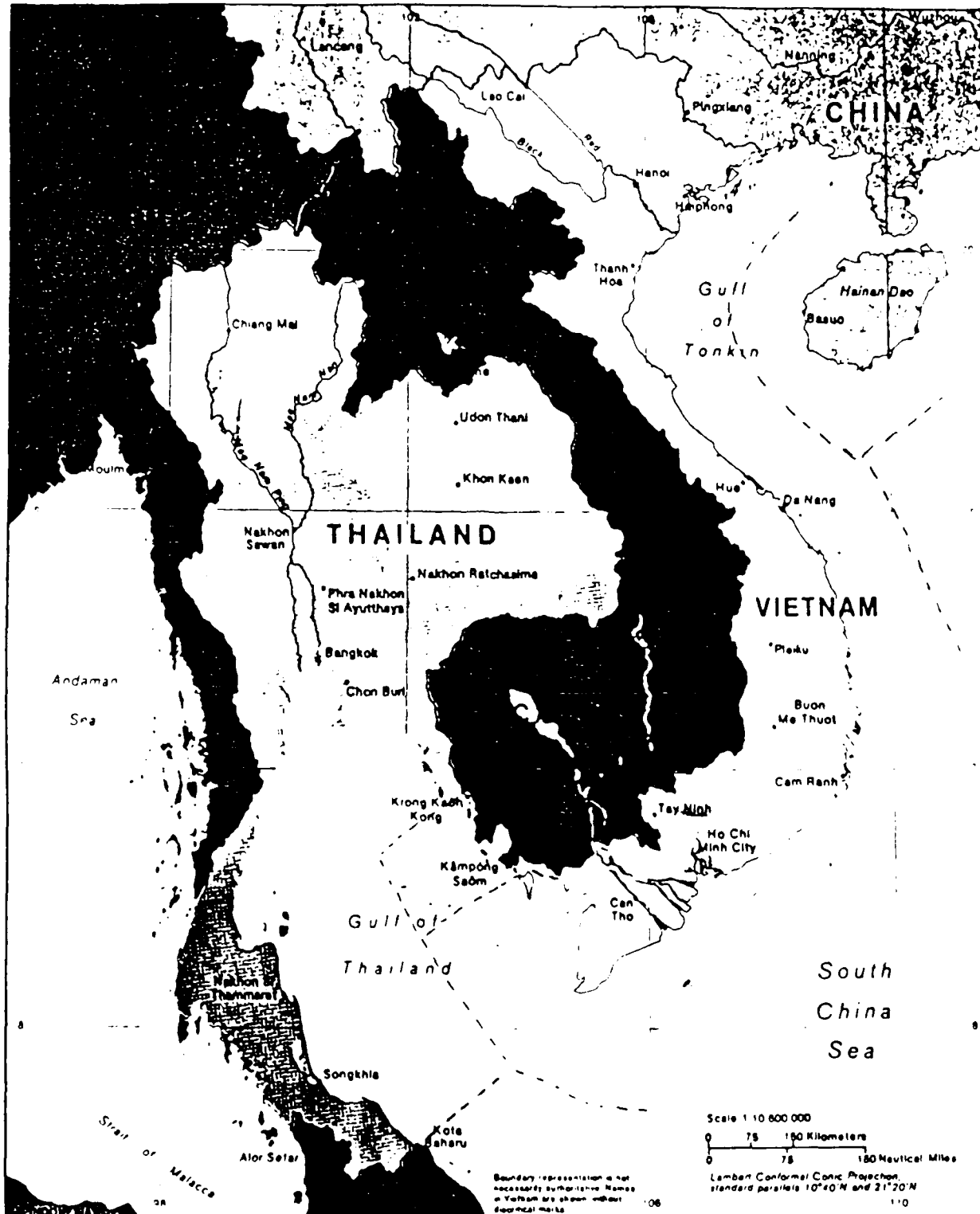
The sea area of the Spratly Archipelago is approximately 150,000 square miles and located about 230 miles off the coast of Vietnam and 900 miles south of the Chinese island of Hainan. The Philippine island of Palawan to the east is about 120 miles away, while the Malaysian state of Sabah is some 150 miles to the south. This archipelago is being disputed by five littoral states of the South China Sea, made up of China, Taiwan, Vietnam, the Philippines, and Malaysia.<sup>8</sup>

The second largest archipelago in the South China Sea are the Paracels which is about 18,000 square miles. It lies about equidistant of 180 miles from Danang and Hainan Island of China and along the Hong Kong-Singapore sea route.<sup>9</sup> The Paracels comprises two island groups, namely the Amphirite and the Crescent groups. The former is located in the northeast and consists of seven islands, eight cays and one reef. The latter is situated in the southwest and includes six islands, two islets, four reefs and a sand bank. The islands in the Amphirite Group are Woody Island, Rocky Island, Lincoln Island, Tree Island, and the North, Middle, and South Islands. The six islands in the Crescent Group are Robert, Tilton, Duncan, Money, Drummond, and Oassu Keah Islands.<sup>10</sup> Conflicting claims on these islands are between China, Vietnam, and Taiwan.

The next group of islands in the northern part of the South China Sea is the Prata Archipelago. It is made up of one island and two sand banks that are located about 240 miles from Taiwan and 80 miles off the Mainland Chinese coastline. Interested parties that claim possession of these islets are China and Taiwan.

The last archipelago under dispute is the Natunas that lies about 300 miles south of Vietnam and 200 miles northwest of Malaysian state of Sarawak. The main disputed area is the sea to the north of this archipelago because

# GULFS IN DISPUTE



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Indonesia claims EEZ protrudes 100 miles into the Vietnamese EEZ.<sup>11</sup>

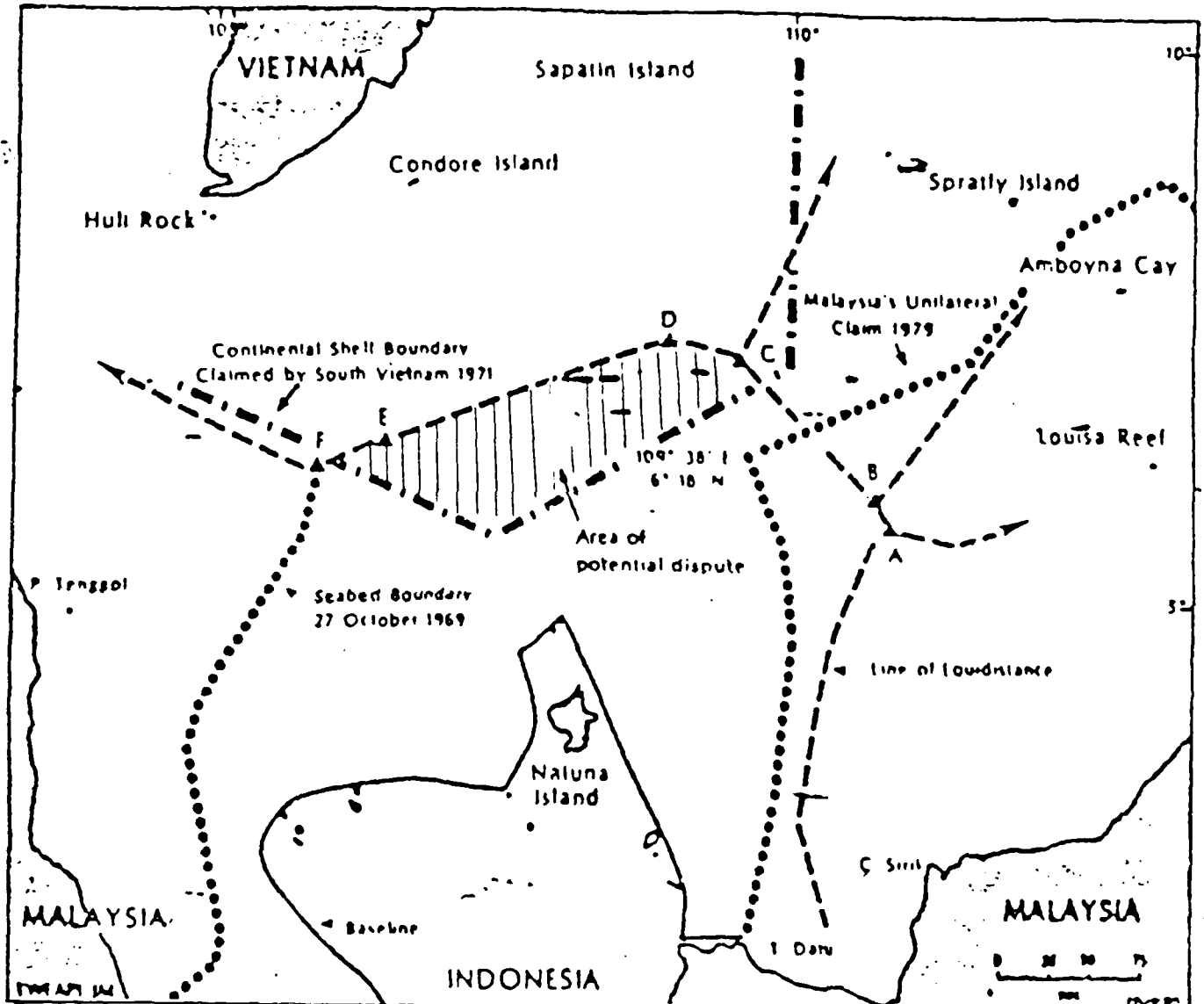
The Vietnamese are also involved in the two gulfs under dispute; the Gulf of Thailand and the Gulf of Tonkin. On one hand, the Gulf of Thailand lies on the extreme south of the western side of Vietnam, and on the other the Gulf of Tonkin is situated on the eastern coast, but on its extreme north. The Gulf of Thailand covers an area of approximately 24,221 square miles and is situated to east and south of Thailand.<sup>12</sup> To the northeast is Kampuchea and to the south, Malaysia. Kampuchea and Thailand also contest the water boundaries along with Vietnam. (See map on page 7)

The Gulf of Tonkin has its beaches reaching Vietnam in the west, mainland China in the north, and Hainan in the east. It joins the South China Sea in the south. The dispute here is essentially between China and Vietnam, although Taiwan is technically involved.<sup>13</sup>

#### CLAIMANTS AND THEIR AREAS OF INTEREST

There are five littoral states that have overlapping and conflicting claims in the Spratly Archipelago, namely China, Taiwan, Vietnam, the Philippines, and Malaysia. The dispute over the Paracels concerns China, Taiwan, and Vietnam, just like the dispute over the Gulf of Tonkin,

# DISPUTED AREA BETWEEN VIETNAM AND INDONESIA



while the Gulf of Thailand has caused overlapping claims by Thailand, Kampuchea, and Vietnam.<sup>14</sup> Vietnam also protests the new Indonesian EEZ drawn from the Natuna Archipelago which overlaps half way into its own EEZ in the south. (See map on page 9)

In the case of the Gulf of Thailand, each claimant had made unilateral proclamation and publication of maps to cover the territorial waters in the gulf. Vietnam published its maps in 1971, Kampuchea in 1972, and Thailand in 1973 respectively.<sup>15</sup> As can be expected, the boundary lines overlapped between Vietnam and Kampuchea, Vietnam and Thailand, Thailand and Kampuchea, and in one area, all of the three states. The interests here are economical, both for fishing as well as for potential oil sources.<sup>16</sup> (See map on page 7)

For the same reason, the Gulf of Tonkin is being claimed by Vietnam and China. Specifically, the dispute involves the demarcation line running north/south between Hainan Island and the Vietnamese coast. Although the Sino-French Treaty signed in Peking in 1887 purportedly had settled the issue, the Chinese alleged that the maritime boundary was not precisely located. The Vietnamese, on one hand, wanted the delimitation be based on line of equidistance (by which it stood to gain two-thirds of the

gulf); the Chinese on the other hand, insisted that the division be based on median line.<sup>17</sup>

The dispute in the Paracels in theory concerns three parties; China, Taiwan, and Vietnam. The first two have their claims on the same historical basis of possession which were substantiated by the discovery of Chinese coins on one of the Paracel Islands that dated back to the Wang Dynasty from 3 BC to 23 AD.<sup>18</sup> It was claimed that the Chinese sovereignty in the Paracels can be traced back to 206 BC. In contrast, the Vietnamese claim territorial sovereignty over the Paracels back to the eighteenth century when the Doi Huang Sa Society was established to explore the commercial potential of these islands.<sup>19</sup> In 1834, Emperor Minh May was said to have built a pagoda on the rock Ban Na in the Paracels. The Emperor supposedly had issued a chart that showed the Paracels as part of the Vietnamese territory. This claim was further substantiated by the Vietnamese who cited the French domain over the Paracels beginning in 1930. During that period, a navigation light was asserted to have been installed on one of the Paracel Islands where a seaplane base was developed.<sup>20</sup>

In 1939, the Japanese Imperial Forces occupied all the main islands in the South China Sea including the Paracels. After their defeat in 1945, the Allied Supreme Commander, General MacArthur, directed all Japanese north of the

latitude 16 degrees North to surrender to the Republic of China. Consequently, Hainan and the Paracels were placed under the Nationalist Government. However, the situation changed in 1949 when the Communists defeated the Nationalists and formed the Peoples Republic of China government on the mainland. Subsequently, the Nationalist troops in Hainan and the Paracels withdrew to Taiwan and the islands were then occupied by Peoples Republic of China's forces.<sup>21</sup> Nevertheless, it was noted that the PRC only stationed its troops on one island, the Woody Island, which is located on the northeastern side of the Paracels.<sup>22</sup>

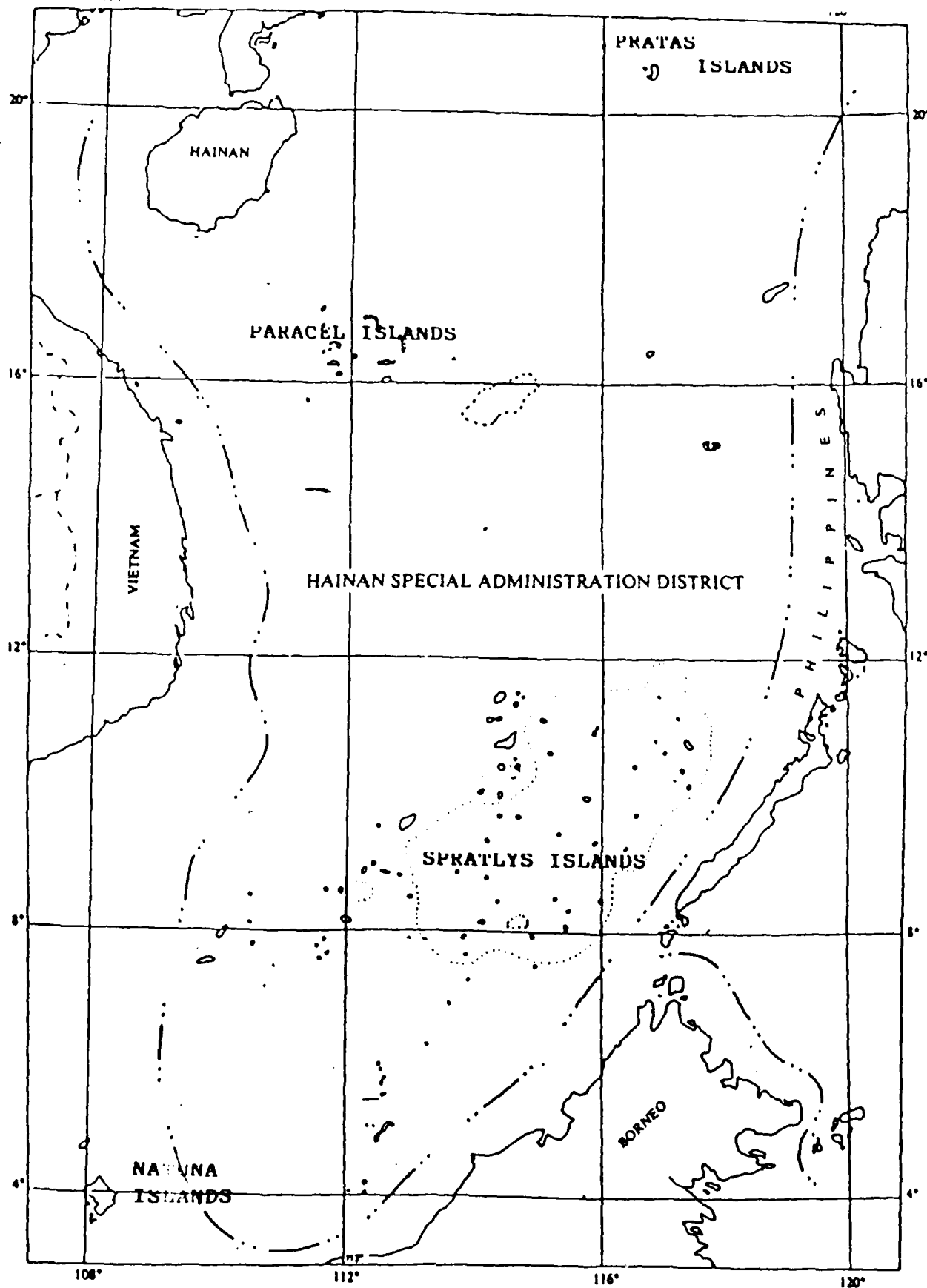
The signing of the 1951 Peace Treaty between the Japanese and the Allied Powers in San Francisco marked another turn in events that brought back the Vietnamese into the picture involving the Paracels.<sup>23</sup> Among other things that were renounced by the Japanese on that occasion was the disclaiming of any right, title, or claim in the Paracels and the Spratlys.<sup>24</sup> Vietnam, which was represented at the ceremony, reasserted its right over those islands, which had in fact been ceded by the French.<sup>25</sup> By 1969 the South Vietnamese government of President Thieu stationed troops in the Paracels.<sup>26</sup> As a result, the western section of the Paracels was occupied by the Vietnamese and the eastern by the Chinese.



The situation in the Paracels remained status quo for a while because the Chinese were technically allies with the North Vietnamese and had been supplying arms to the latter since before the 1970's. By 1973 the Beijing regime realized that the United States would soon be withdrawing from Southeast Asia. Even though South and North Vietnamese were bitter enemies, they agreed that the Paracels belonged to the Vietnamese. The Chinese also anticipated that when the South fell, it would have to surrender the Paracels to the North. As a result, in January 1974, the Chinese acted promptly by attacking and evicting the South Vietnamese troops from the western Paracels territories. North Vietnam did not openly protest against the Chinese at that time because they were allies. However, Hanoi bitterly criticized the Saigon Government for losing those territories.<sup>27</sup>

Immediately after the downfall of the South in 1975, the People's Army of Vietnam's naval forces reoccupied some islands in western Paracels.<sup>28</sup> The Chinese, as mentioned earlier, had only occupied one island in the eastern sector and thus had left the western territories open for "the grab". Except for making public protests, the Chinese did not take any retaliatory action.

Several negotiations were held between 1975 and 1978 by both the new Vietnam regime and Beijing to resolve a wide



range of territorial disputes including all the South China Sea Islands. Nothing concrete was achieved, so all talks were abandoned in June 1978. A decade of peace and tranquillity appeared to prevail in the Paracels after that. Nonetheless, both parties continued repeatedly to reiterate their claims of the entire South China Sea including the Spratlys.

The Spratly Archipelago undoubtedly is the most complex and keenly contested area because of its vastness, potentials, and overlapping claims. Five countries of the littoral states have staked their claims on all or parts of the Spratly Islands. The basis of these claims varies from historical, right of discovery, continental shelves, to exclusive economic zones.

The biggest, strongest, and most adamant claimant are the Chinese. Similar to their claim on the Paracels, the Chinese based their claim over the sovereignty of the Spratlys on historical grounds.<sup>30</sup> Like the Taiwanese, the Chinese in fact claimed the entire South China Sea as depicted on their maps, respectively drawn in 1964 and 1965.<sup>31</sup> (See map on page 14) However, China did not occupy any one of the islands until very recently after a fiercely fought battle with the Hanoi troops. The first island the Chinese occupied was the Flery Cross in March 1987. (See map on page 16) By April 1988, five more islands were annexed



by the Chinese, namely Union Bank, Cuarten Reef, Gaven Reef, Johnson Reef, and Subl Reef. One more reef was seized in March 1989, called the North Danger Reef.<sup>32</sup> The Taiwan Government, on the other hand, had occupied Itu Aba since the Japanese surrender.<sup>33</sup>

The Vietnamese claim in the Spratlys is also based on historical sovereignty. A White book published by the Vietnamese Foreign Ministry in 1979 entitled "The Vietnamese Sovereignty Over the Hing Sa (Paracels) and Truong Sa (Spratlys) Archipelago" is one of the publications that support its claims to the Spratlys which can be traced back to 1650-53.<sup>34</sup> The newly installed Hanoi Government, in response to the Chinese seizure of Western Paracel in 1974, occupied six islands in the Spratlys Archipelago in 1975.<sup>35</sup> These were the North Danger Cays (Northeast and Southwest), Union Bank (consisting of Sin Cowe, Cowe, and Caman Reefs). As can be seen, some of these islands/reefs were lost to the Chinese in March 1988. Vietnam also stationed its troops on Amboyana Cay in 1977 and the Spratly Island in 1980.<sup>36</sup> (See map on page 16)

The next claimant to the Spratly Islands is the Philippines which professed to own about 60 islets, atolls, reefs, and cays., Their claims are based on a "discovery" in 1956 by the Filipino, Thomas Cloma, and made formal in 1971.<sup>37</sup> The Philippines named this group of islets Kalayan

Islands and asserted that they were not part of the Spratly Archipelago. Therefore, they considered this group of islands as "terra nullis" until discovered by Thomas Cloma. Troops were sent to occupy at least six of the islets in 1975, the largest being the Pagasa. (Thitu Island)<sup>38</sup> (See map on page 16)

The Philippines entry into the Spratlys was followed by Malaysia in 1979, when it published a new map of Malaysia. This map included eleven atolls as part of its EEZ based on continental shelves. Each of these atolls are part of the southern portion of the Spratly Archipelago, some of which were already claimed by others like the Vietnamese and the Philippines, and without a doubt, the Chinese. Malaysia established its first military station on the Swallow Reef in 1983.<sup>39</sup> (See map on page 16)

#### ACTIONS TO EFFECT CLAIMS

The most common action taken by each of the littoral states to effect their claims is the use of military element of power.<sup>40</sup> On one extreme, military might was employed to forcibly evict occupying troops, and on the other, military personnel were merely deployed to occupy territories being claimed. Nonetheless, all claimants have used the military means to exercise their "rights".

The first government to have utilized its troops on the islands in the South China Sea was the Nationalist Government of China. Immediately after the Japanese Surrender in 1945, the Nationalist Chinese Navy occupied Woody Island in the Paracels and Itu Aba in the Spratlys. Even though these troops were withdrawn when the Communists took power in 1949, the Nationalist Regime (now Taiwan) reoccupied Itu Aba in 1956 and remains so until today.<sup>41</sup> It has been reported that there are about 600 marines entrenched on this island.<sup>42</sup>

The second country known to have sent its armed forces to occupy the islands in the Spratlys was the Philippines. The first island garrisoned was Pagasa (Thitu) in 1968.<sup>43</sup> This was followed by other islands in the area that is officially called by the Filipino name of Kalayaan (Freedom Islands). By 1978, a total of 1,000 marines were effectively controlling Manila's claim. Pagasa has the largest number of troops, reportedly about 600 men, and it has the longest air strip in the Spratlys measuring 1,800 meters.<sup>44</sup>

The next government which deployed troops in the South China Sea was the Saigon Government. President Thieu began sending a small marine force to occupy the Paracels in 1969.<sup>45</sup> This was, however, short lived. By 1973 the Beijing Government realized that the South Vietnamese could

not possibly stop the North from overtaking the country when the United States forces withdrew from Indochina. It also anticipated that the South would hand over the Paracel Territories as well when that happened. Consequently, as a matter of national pride, it swiftly attacked and evicted the Saigon troops from the Paracels in January 1974. This action demonstrated the Chinese determination to use force when necessary to reinforce its claims of sovereignty over the South China Sea. Since then, China has maintained its presence in the Paracels, primarily by occupying Woody Island.<sup>46</sup>

As mentioned earlier, the North Vietnamese Regime did not officially protest the Chinese action in the Paracels at the time of that incident but merely condemned the South's Government for losing the Vietnamese territories. So, as soon as it overran the South, it wasted no time to react against the Chinese onslaught by occupying six islands in the South China Sea in the Spratlys.<sup>47</sup> These were the South West Cay, Gaven, Caman, Guarten Reefs, Flery Cross and the Amboyana Cay. (See map on page 16) China protested strongly against this seizure but was unable to retaliate because of the distance (about 900 miles from Hainan) and the lack of proper force and support to face the Vietnamese naval power in the Spratlys. Therefore, for a long while the Chinese had no troops in the Spratly Archipelago.<sup>48</sup>



Meanwhile, following the publication of its new map in 1979, Malaysia, based on continental shelves and extent of EEZ, landed its troops on the Swallow Reef (Layang Layang) in 1983. Subsequently, it occupied two more reefs in 1986: the Mariveles Reef (Mantanani) and the Dallas Reef (Ubi) after having observed the presence of Chinese warships patrolling the nearby waters in the Spratlys. (See map on page 16)

The Chinese were the last to stake its claims on the Spratlys. Having learned how ill-prepared they were in the assault on the Paracels in 1974 and knowing that the other littoral states like Malaysia, Thailand, Philippines, and Indonesia were enlarging their naval fleets, and that the Vietnamese had already a formidable force in the sea, China decided to transform from a brown water navy to a blue water force.<sup>49</sup> Furthermore, China realized that only by possessing an effective and modern naval capability that it could control its territorial waters that practically extend from the Yellow Sea in the north to the South China Sea in the south. The need became more critical after the United States withdrawal from Vietnam and the Soviet Union began to build up its Pacific Fleet in the Cam Ranh Bay.<sup>50</sup>

The real presence of the Chinese in the Spratly Archipelago was in 1986 when a large naval force conducted maneuvers in the Western Pacific for about ten days.<sup>51</sup>

During this period Chinese warships were observed to be sailing in and around the Spratly Islands. These activities were further intensified in 1987 when UNESCO gave the task to China to establish two permanent observation posts for an oceanic committee of the United Nations Organization in that region. In April of the same year, the Chinese Navy conveyed a large and well organized scientific expedition to the Spratlys. More than ten islands were surveyed over a period of fifty days.<sup>52</sup> This event was widely publicized by the China News Agency which also revealed that the Chinese Navy had successfully conducted an amphibious exercise on one of the islands in the Spratlys. By July, the Spratly Archipelago was proclaimed to be part of the Hainan Province.<sup>53</sup> (See map on page 14) Vietnam, like the other claimants in the Spratlys, was alarmed over the Chinese naval activities and consequently protested and reiterated its own claim of sovereignty of the Spratlys. Subsequently, it sent some troops to occupy the Barque Canada Reef. (See map on page 16) Malaysia, as mentioned earlier, occupied two more reefs, while the Philippines Congress passed a bill to officially redefine its boundaries in the Spratlys that included sixty islands and reefs.

The Chinese continued its survey activities in the Spratlys the following year. In February, Vietnam once again charged the Chinese with intruding into its

territories in the Spratly Archipelago, and accused China of violating its sovereignty by landing troops on two reefs. China ignored the protest and reportedly occupied Flery Cross Reef where construction works for a permanent base commenced. To counter this action, Vietnam occupied four more islands in the first two months of 1988, and China followed suit by occupying a few more reefs.<sup>54</sup> The ensuing protest and counter protest climaxed into a clash on March 14, 1988. Both sides accused each other of causing the encounter. Vietnam alleged that the Chinese provoked its troops by landing more than seventy armed personnel on Gac Ma Reef (Johnson Reef). When they were told to leave, the Chinese opened fire. The Chinese, on the other hand, accused the Vietnamese of starting the skirmish. According to them a Chinese survey team went ashore to set up an observation post when forty three Vietnamese armed with weapons alighted from three ships on the same islet at the same time. When told to leave, the Vietnamese opened fire and wounded one Chinese member of the survey team. This was then followed by machine gun fire from the ships and that incited the Chinese to return the fire. During the brief exchange of fires, the Vietnamese vessels were set ablaze. The battle was said to have lasted for about 28 minutes.<sup>55</sup>

By the end of April 1988, the Chinese were reported to have seized a total of six islets. Another one was

garrisoned in May. In agitation, the Vietnamese purportedly occupied three more islets, making the total number of islets under its control twenty one. Both Beijing and Hanoi continued to throw slanderous statements against each other, while beefing up their respective forces. Vietnam was alleged by the Chinese to have amassed more than thirty ships in the vicinity of the Spratly Islands, while the former claimed that the Chinese had some twenty big battleships armed and accompanied by a submarine. In July, military constructions on Flery Cross Reef was reported to have been completed by the Chinese. Among others, a 300 meter pier that can handle 4,000 ton ships, a helipad, and an oceanographic observation station were built on this reef.<sup>56</sup>

After the March 14 incident, other claimants started to react. Taiwan resupplied its troops on the Taiping Island (Itu Aba) and reinforced the garrison. In addition, two missile destroyers and supporting ships were dispatched to conduct an exercise based on the later defending of the island. At about the same time, the Taiwan Minister of Defense made a statement to Parliament that Taiwan would avoid getting involved in the Chinese-Vietnamese conflict, but emphasized that Taiwan would defend its territory in the Spratlys to the last man.<sup>57</sup>

The Philippines also responded to the event. On March 17, the Philippines issued a warning statement to both the Chinese and the Vietnamese not to disturb its territories in the Kalayan. By May, all the occupied islands that the Philippines claimed were reinforced with additional personnel and weapons systems. Troops assigned to these islands were put on full alert and had once reacted to foreign "intrusion". Four Taiwan fishing boats were seized in the Kalayan waters in August after being accused of intruding into the Philippines territories.<sup>58</sup>

Malaysia reacted in the same manner as the Philippines to protect its claims in the Spratlys. On April 5, the Malaysian Navy arrested 49 Philippine fishermen near the Commodore Reef. They were alleged to have entered into Malaysian territorial waters illegally. After some protests from Manila, the Malaysians finally released these people without any prosecution. More charges were later raised by the Philippines over naval and air activities supposedly to be Malaysian in the vicinity of Palawan Island. In September, the Filipino Defense Secretary announced that the Philippines Armed Forces had already reinforced its naval and air forces in the South and that its fishermen would be given naval protection.<sup>59</sup>

Naval forces were also employed in the Gulf of Thailand to protect disputants' claims of their territorial waters.<sup>60</sup>

The Thai Navy had frequently clashed with Kampuchean and Vietnamese fishermen. For that matter, Kampuchea had also demonstrated that they were willing to use military force to protect their waters as evidently shown in the Mayaguez Case. In this incident, the United States had to deploy considerable naval forces to rescue the crews and the ship involved from the custody of the Kampuchean armed forces.<sup>61</sup>

The scenario in the Gulf of Tonkin differs very little from that of the Gulf of Thailand. The Chinese made use of the Gulf during its punitive action against Vietnam in 1979 which was only preceded by the extensive use of the Gulf by the United States to effect a naval blockade of Haiphong during the Vietnam War.<sup>62</sup>

#### ATTEMPTS TO RESOLVE DISPUTES

Each of the disputant littoral states in the South China Sea have indicated their willingness to resolve the conflicting claims by peaceful means, especially after the Chinese-Vietnamese clash in the Spratlys in March 1988.<sup>63</sup> However, there are many constraints that prevent this from happening because of the multi-faceted complexity of the issues involved. For instance, all claimants in the Spratlys have military forces occupying parts of the territories that they claim. If a multinational negotiation were to take place, it must be on a certain basis. The mere

fact that negotiations were being held "would presume the recognizance of the existing status quo, either as a fait accompli or as a basis for compromise."<sup>64</sup> This certainly would not be acceptable to all parties, particularly China and Vietnam, because this would compromise their long-standing claims in the area.

Bilateral negotiations, specifically over the Spratlys dispute, are almost impossible because there are more than two claimants to any given area. The most difficult issue before any negotiation can take place is the basis of the claim itself. With the proviso outlined in the LOSC varying from territorial waters, continental shelves and EEZ, it will be unlikely for any party to come to agreement as to what basis to use. What is even worse is that proof would be required if historical possession and rights of discovery principles were used. Nonetheless, bilateral talks had occurred in the past in the attempt to resolve overlapping claims.

First of all, in the Gulf of Thailand dispute, several meetings have been held between the disputants. For example, in May 1976 representatives from Vietnam and Kampuchea met and both sides agreed to hold discussions to resolve the differences. Vietnam also held similar talks with Thailand. In fact, in January 1978, a joint communique was issued announcing that both countries agreed to settle

their dispute on the basis of equitable principle. Unfortunately, when Vietnam invaded Kampuchea in the same year, these negotiations stopped and the disputes in the Gulf of Thailand remained unsolved.<sup>65</sup>

Secondly, Vietnam has also held talks with Indonesia that pertained to the overlapping claims in the sea between the Natuna Archipelago and the Vietnamese south island territories over their new EEZ. The problem here arose from the fact that Indonesia had granted exploration rights to a number of international corporations since 1970. Likewise, Vietnam too had given rights to the Soviet Union to explore oil potential in the same area. In spite of negative results from these talks, both countries agreed to compromise. However, the precise delimitation of their EEZ has not been resolved and still remains a troublesome issue.<sup>66</sup>

Thirdly, Malaysia and the Philippines have been holding continuous bilateral talks between August 1988 and May 1989 in an attempt to find a solution to their overlapping claims in the southern part of the Spratlys. Nevertheless, the negotiations came to a halt because of the dispute over the Commodore Reef.<sup>67</sup>

Fourthly, bilateral talks on border disputes had been on-going between Hanoi and Beijing even before the March



1988 incident. In early 1977, Vietnam's Prime Minister, Pham Van Dong met China's Chairman Hua Guafong to discuss their territorial disputes. This was followed in June with a conference between Pham Van Dong and Chinese Vice Premier Li Xia Nian. Although a memorandum emerged from their talk, nothing concrete was solved.<sup>68</sup> Also, nothing resulted from the most recent talk in January 1989 when Deputy Foreign Minister of Vietnam held discussions with Chinese officials in Beijing.<sup>69</sup>

Each of the littoral states involved in the Spratlys dispute had unilaterally called for a peaceful settlement after the skirmish of March 1988. Among the first was the Philippines who urged Vietnam and China to resolve their disputes by peaceful means. In April of the same year, the Philippines and Vietnam agreed to such ideas. This was reiterated by the visiting Vietnamese Deputy Foreign Minister in Manila who told reporters that all sides must refrain from using force over their disputes. In the same month President Corazon Aquino visited Beijing and talked with Chinese leaders about the Spratlys issues. Both agreed to shelve the issue for the time being. China, after that, even declared that its disputes with Malaysia and the Philippines could be resolved by friendly discussions.<sup>70</sup>

From the foregoing, it is apparent that all disputing parties agreed that settlement of the conflicting claims

should be negotiated peacefully. Nonetheless, in all bilateral discussions that have been held to date, nothing substantial has been achieved. Conversely, all claimants had instead intensified their stations and garrisons in the occupied territories with more troops and supplies. Some even went further in staking their claims by annexing new pieces of reefs or cays. Foremost in the scramble are China and Vietnam whose animosity towards each other has been traditional. This is aggravated by the newly acquired capabilities of the Chinese naval force which had overwhelmingly demonstrated its strength in the March 1988 clash. Even Vietnam is not formidable enough to challenge the new Chinese maritime force. The abstention of super powers in this regional conflict further exhilarated Chinese actions.

#### SECURITY IMPLICATION

The disputes caused by the conflicting claims in the South China Sea give rise to anxiety not only among the littoral states but also to others including regional and super powers. This situation is worsened when all attempts to negotiate by peaceful means failed and claimants continued to increase their troop strength in occupied territories. The volatile condition can be very explosive as demonstrated by the March 14, 1988 incident. This

certainly threatens the security and stability of the region.

Despite the end of the Cold War, the United States and Soviet Union interests in the Southeast Asia region are not diminishing. The strategic importance of the South China Sea both in terms of naval and commercial shipping remains unchanged. For instance, a great portion of the United States logistics support of the war in the Gulf traverses through this sea lane of communications. Similarly, United States economic interests in the ASEAN countries continue to be increasing with the advent of expanding trade relations. It is to the United States interests to see that access to this region is free.

The USSR interests in Southeast Asia have been repeatedly mentioned by Mikhail Gorbachev since assuming power in 1985. This is not only confined to military interest, but extends towards political and economic relationships. In spite of a gradual draw-down in Cam Ranh Bay, Soviet naval presence in the South China Sea is still greatly felt by the littoral states. Although the USSR has refrained from exercising its security treaty obligation with Vietnam during the latter's debacle with the Chinese in the Spartlys, it does not mean that it will not do so in the future, especially when its economic ties with the nations in the region becomes more substantial.

Japanese imports of oil and raw materials, in the main, pass through the South China Sea sea lane of communications. So do most of its exports to Europe, the Middle East, and the Southeast Asian markets. It is in Japan's interests to see that this route is kept open. Even though, militarily, it cannot exert its force directly (except, perhaps, through its biggest trading partner and military ally, the United States), Japan may use its economic power and also its political influence to ensure the stability of the region.

Regionally, China with its ongoing modernization programs of the blue water navy and amphibious capabilities seems to be dominant in the South China Sea. Having inadvertently displayed its naval might in the Spratlys in 1988 and shown its determination to protect its territorial interest, China has caused turmoil in the stability and security of the area. The fear and concern among the smaller littoral states in the region are justifiably grave. Even Vietnam, the strongest military nation in Southeast Asia, cannot match the Chinese onslaught. Therefore, the presence of large Chinese naval forces in the South China Sea is seen as threatening to the security of other disputants, many of which have advocated negotiations as the best means of settling the conflicting claims.

Until such time as peaceful resolutions are found for the conflicting claims, the South China Sea will remain a

boiling pot. The war in the Persian Gulf, the political instability in China, and the economic drawbacks of Vietnam may stall the explosive situation for a while. However, the tension continues to boil now, particularly in the Spratlys, with opposing troops gazing at each other all the time. Another incident like the March 14, 1988 fiasco could explode at any time.

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